

Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NEW YORK LIFE INSURANCE
COMPANY,

Plaintiff,

v.

BRANDON GUNWALL; JEFFREY E.
SWENSON; and AMELIA BESOLA, as
Administratrix of the Estate of Mark Lester
Besola,

Defendants.

CIVIL ACTION NO. 2: 19-CV-00226

DEFENDANT BRANDON GUNWALL'S
RESPONSE TO DEFENDANT AMELIA
BESOLA'S MOTION TO STAY
PROCEEDINGS

NOTE ON MOTION CALENDAR:
October 18, 2019

Defendant, Brandon Gunwall, by and through his counsel undersigned, respectfully offers the following response to Defendant Amelia Besola's Motion to Stay Proceedings.

Mr. Gunwall has filed with this Court a Motion for Substitution of Parties and Continuance which is noted for October 25, 2019. In that Motion, Mr. Gunwall requests an Order, pursuant to F.R.C.P. 25(c), which would (1) substitute Eric Pula, Personal Representative of the Estate of Mark Lester Besola, for Amelia Besola, former Administratrix of the Estate of Mark Lester Besola, and (2) continue all deadlines in this matter for an amount of time sufficient for Mr. Pula to familiarize himself with the Estate of Mark Lester Besola to determine what course of action is appropriate in relationship to this Interpleader action. *See Docket #39*. In light of Mr. Gunwall's pending motion and as Ms. Besola is no longer a proper party to this Interpleader action, Mr. Gunwall hereby objects to the granting of Ms.



1 Besola's Motion to Stay the proceedings herein. For the sake of efficiency, Mr. Gunwall hereby
 2 incorporates and adopts by reference his Motion to Substitute Parties and for Continuance as part of this
 3 Response in opposition to Ms. Besola's Motion to Stay Proceedings. *See Docket #39.*

4 Ms. Besola asserts that she has asked this Court to find that Brandon Gunwall and Jeffrey
 5 Swenson are disqualified as beneficiaries under RCW 11.84.010. While this is true, Ms. Besola has been
 6 removed as the Administrator of the Estate of Mark Lester Besola which she admits at paragraphs 2-3 of
 7 her Motion to Stay. *See also Docket #40, Exhibit 1.* Thus, she no longer has standing to pursue this claim
 8 in the Interpleader. Ms. Besola also asserts that she filed a Will Contest immediately after the decedent's
 9 Will was admitted to probate which resulted in her removal and the appointment of Mr. Eric Pula. While
 10 this is also somewhat true (there are questions surrounding whether the Will Contest has been properly
 11 noted and served), it does not give her standing in this Interpleader action. Further, pursuant to RCW
 12 11.24.030, Ms. Besola has the burden of proof as to the illegality of the Will and must do so by clear,
 13 cogent, and convincing evidence.

14 Ms. Besola next asserts that a Stay is appropriate here as "the pending will contest in Pierce
 15 County Superior Court will determine the identity of the parties in the matter before this court." This is
 16 not accurate. The Pierce County Superior Court has already decided who the proper parties are in that
 17 case, and unless Ms. Besola prevails on her alleged Will Contest, that will not change. As she is no
 18 longer the Administrator of the Estate of Mark Lester Besola, we already know that she is not a proper
 19 party to this Interpleader action.

20 Ms. Besola next asserts that Mr. Gunwall and Mr. Swenson, through conversations with counsel,
 21 are in agreement with this Motion to Stay the proceedings. While it is true that this was discussed as an
 22 option, no agreement was ever entered into which is evidenced by the fact that Ms. Besola's motion is not
 23 a joint or stipulated motion. Mr. Gunwall would prefer that the Court grant his pending Motion to
 substitute and continue instead as Ms. Besola has already spent too much time wrongfully controlling the
 assets of the Estate and the disposition of the same.



1 In conclusion, Mr. Gunwall respectfully requests that this Court DENY Amelia Besola's Motion
2 to Stay Proceedings.

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4 DATED this 15th day of October, 2019.

5
6 Morton McGoldrick, PLLC

7 s/ Daniel K. Walk

8 Daniel K. Walk, WSBA No. 52017

9 Attorney for Defendant Brandon Gunwall
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CERTIFICATE OF SERVICE

I declare under penalty of perjury under the laws of the state of Washington that the following is true and correct:

I am employed by the law firm of Morton McGoldrick, PLLC.

At all times hereinafter mentioned, I was and am a citizen of the United States of America, a resident of the state of Washington, over the age of eighteen (18) years, not a party to the above entitled action, and competent to be a witness herein.

On the date set forth below I caused to be served in the manner noted the document(s) entitled: **DEFENDANT BRANDON GUNWALL'S RESPONSE TO DEFENDANT AMELIA BESOLA'S MOTION TO STAY PROCEEDINGS** on the following person(s):

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DATED this 15th day of October, at Tacoma, Washington.

/s/ Jennifer R. Odom
Jennifer R. Odom

